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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,307	06/20/2001	Adam Kolawa	41182/JEC/P396	4570
23363	7590	08/12/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			SELLERS, DANIEL R	
		ART UNIT	PAPER NUMBER	
			2644	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/885,307	KOLAWA ET AL.
	Examiner Daniel R. Sellers	Art Unit 2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 May 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6, 9, 11-29 and 31-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6, 9, 11-29 and 31-55 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 May 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 24 and 52 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 24 recites the limitation "responsive to **the** detected playback condition" in the last line. There is insufficient antecedent basis for this limitation in the claim.
4. Regarding claim 52, it is not clear as to what it means to "set[s] a **new** play time for at least one of the... audio pieces..." The office interprets a new play time as in scheduled play time.

### ***Claim Rejections - 35 USC § 102***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 18-21, 23, 40-43, and 45 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Gang.
7. Regarding claim 18, see the previous office action. Gang teaches a system that automatically classifies audio pieces (Paragraph 0017), and Gang teaches a system that compares a user preference vector by calculating distances between different vectors (Paragraph 0029).

8. Regarding claim 19, the further limitation of claim 18, see the previous office action. Gang teaches this feature.
9. Regarding claim 20, the further limitation of claim 18, see the previous office action. Gang teaches this feature.
10. Regarding claim 21, the further limitation of claim 18, see the previous office action. Gang teaches this feature.
11. Regarding claim 23, the further limitation of claim 18, see the previous office action. Gang teaches this feature.
12. Regarding claim 40, see the preceding argument with respect to claim 18. Gang teaches the automatic classification step and the features of comparing user preference vectors with audio classification vectors.
13. Regarding claim 41, the further limitation of claim 40, see the previous office action. Gang teaches this feature.
14. Regarding claim 42, the further limitation of claim 40, see the previous office action. Gang teaches this feature.
15. Regarding claim 43, the further limitation of claim 40, see the previous office action. Gang teaches this feature.
16. Regarding claim 45, the further limitation of claim 40, see the previous office action. Gang teaches this feature.

***Claim Rejections - 35 USC § 103***

17. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
18. Claims 1-6, 9, 11-17, 22, 24-29, 31-39, 44, and 46-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Gang and Rosser, U.S. Patent No. 6,446,261.
19. Regarding claim 1, see the previous office action, Gang teaches the feature of automatically processing audio signals and compiling audio characteristic information (Paragraph 0017, lines 1-5). Gang teaches a “Finger Map” method, which is automatic. Gang however does not teach a selection based on scheduled broadcast time. In a related art, Rosser teaches a system that tracks television viewer’s habits and preferences (Col. 3, lines 45-62). Rosser teaches that the system accounts for the broadcast schedule when the system turns on (Col. 5, lines 13-18). It would have been obvious for one of ordinary skill in the art to combine the teachings of Gang and Rosser for the purpose of using user profiles in a system, which receives audio broadcasts.
20. Regarding claim 2, the further limitation of claim 1, see the previous office action. Gang teaches this feature.
21. Regarding claim 3, the further limitation of claim 1, see the previous office action. Gang teaches this feature.
22. Regarding claim 4, the further limitation of claim 1, see the previous office action. Gang teaches this feature.

23. Regarding claim 5, the further limitation of claim 1, see Rosser, column 4, lines 55-65. Rosser teaches advertisements.
24. Regarding claim 6, the further limitation of claim 1, see the previous office action. Gang teaches this feature.
25. Regarding claim 9, the further limitation of claim 1, see the previous office action. Gang teaches this feature, and Rosser teaches the use of radio frequencies for transmission (Col. 7, lines 14-20).
26. Regarding claim 11, the further limitation of claim 1, see the previous office action. Gang teaches the use of a computer network.
27. Regarding claim 12, see the preceding argument with respect to claim 1. The combination of Gang and Rosser teach these features.
28. Regarding claim 13, the further limitation of claim 12, see the previous office action. Gang teaches this feature.
29. Regarding claim 14, the further limitation of claim 12, see the previous office action. Gang teaches this feature.
30. Regarding claim 15, the further limitation of claim 12, see the previous office action. Gang teaches this feature.
31. Regarding claim 16, the further limitation of claim 12, see the preceding argument with respect to claim 5. Rosser teaches advertisements.
32. Regarding claim 17, the further limitation of claim 12, see the previous office action. Gang teaches this feature.

33. Regarding claim 22, the further limitation of claim 22, see the preceding argument with respect to claim 18. Gang teaches the features of the parent claim, but does not teach that advertisements are included. Rosser teaches that advertisements are included.
34. Regarding claim 24, see the preceding argument with respect to claim 1. The combination of Gang and Rosser teaches these features.
35. Regarding claim 25, the further limitation of claim 24, see the previous office action. Gang teaches this feature.
36. Regarding claim 26, the further limitation of claim 24, see the previous office action. Gang teaches this feature.
37. Regarding claim 27, the further limitation of claim 24, see the previous office action. Gang teaches this feature.
38. Regarding claim 28, the further limitation of claim 24, see the preceding argument with respect to claim 5. Rosser teaches this feature.
39. Regarding claim 29, the further limitation of claim 24, see the previous office action. Gang teaches this feature.
40. Regarding claim 31, the further limitation of claim 24, see the previous office action. Gang teaches this feature.
41. Regarding claim 32, the further limitation of claim 24, see the previous office action. Gang teaches this feature, and Rosser teaches the use of radio frequencies for broadcast transmission (Col. 7, lines 14-20).

42. Regarding claim 33, the further limitation of claim 24, see the previous office action. Gang teaches this feature.
43. Regarding claim 34, see the preceding argument with respect to claim 1. The combination of Gang and Rosser teaches these features.
44. Regarding claim 35, the further limitation of claim 34, see the previous office action. Gang teaches this feature.
45. Regarding claim 36, the further limitation of claim 34, see the previous office action. Gang teaches this feature.
46. Regarding claim 37, the further limitation of claim 34, see the previous office action. Gang teaches this feature.
47. Regarding claim 38, the further limitation of claim 34, see the preceding argument with respect to claim 5. Rosser teaches the inclusion of advertisements.
48. Regarding claim 39, the further limitation of claim 34, see the previous office action. Gang teaches this feature.
49. Regarding claim 44, the further limitation of claim 40, see the preceding argument with respect to claim 40 and claim 5. Rosser teaches the use of advertisements in the combination.
50. Regarding new claim 46, the further limitation of claim 1, see the preceding argument with respect to claim 1. The combination teaches the features of the parent claim, and Rosser teaches that the user station performs these tasks (Col. 7, lines 21-58).

51. Regarding new claim 47, the further limitation of claim 12, see the preceding argument with respect to claim 12. The combination teaches the use of broadcast channels.
52. Regarding new claim 48, the further limitation of claim 24, see the preceding argument with respect to claim 24. The combination teaches this feature. It is obvious that a processor that is equal can be used in both processing situations.
53. Regarding new claim 49, the further limitation of claim 34, see the preceding argument with respect to claims 34 and 47. The combination teaches this feature.
54. Regarding new claim 50, the further limitation of claim 40, see the preceding argument with respect to claims 1 and 46. The combination teaches that a processor is used to classify audio signals and a user preference vector is also created. It is obvious that a processor that is equal can be used in both processing situations.
55. Regarding new claim 51, see the preceding argument with respect to claim 1. The combination teaches these features.
56. Regarding new claim 52, the further limitation of claim 51, see the preceding argument with respect to claim 1. The combination teaches the use of scheduled broadcast times.
57. Regarding new claim 53, the further limitation of claim 51, see the preceding argument with respect to claim 1. The combination teaches the use of broadcast channels.
58. Regarding new claim 54, see the preceding argument with respect to claim 1. The combination teaches a computer-implemented method with these features.

59. Regarding new claim 55, the further limitation of claim 54, see the preceding argument with respect to claim 1. The combination teaches broadcast channels.

***Response to Arguments***

60. Applicant's arguments with respect to claims 1-55 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

61. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

62. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sass, U.S. Patent No. 6,823,225, and

Krapf et al., U.S. Patent No. 6,449,767.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel R. Sellers whose telephone number is 571-272-7528. The examiner can normally be reached on Monday to Friday, 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DRS



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